



# SENTENCING IN WISCONSIN

## Snapshots of Information on Wisconsin Sentencing

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### Race and Sentencing: The Role of Geography

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The last *Snapshots* presented basic information on race and sentencing. We reviewed a portion of the extensive literature on crime, incarceration and race. We also presented data on 2003 prison admissions.<sup>1</sup> While minorities are incarcerated at disproportionately high rates, there is not an obvious disparity in sentence length<sup>2</sup>, once sent to prison.<sup>3</sup> Figure 1 reproduces the findings on average sentence, and breaks driving while intoxicated (OWI) offenses out as a separate category.

characteristics and opinions of the local community. This would suggest that, for example, crimes that occur frequently in a large urban county may, all else equal, be treated more severely on the rare occasions when they occur in a rural community.

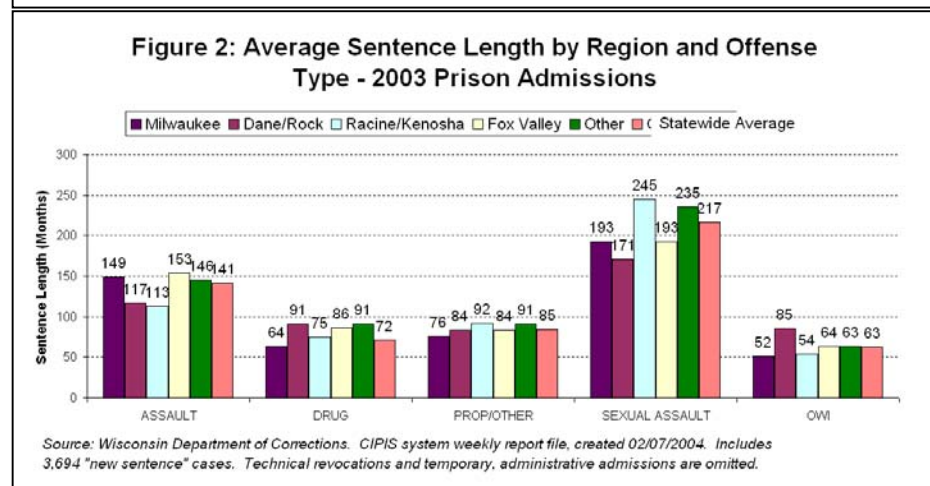
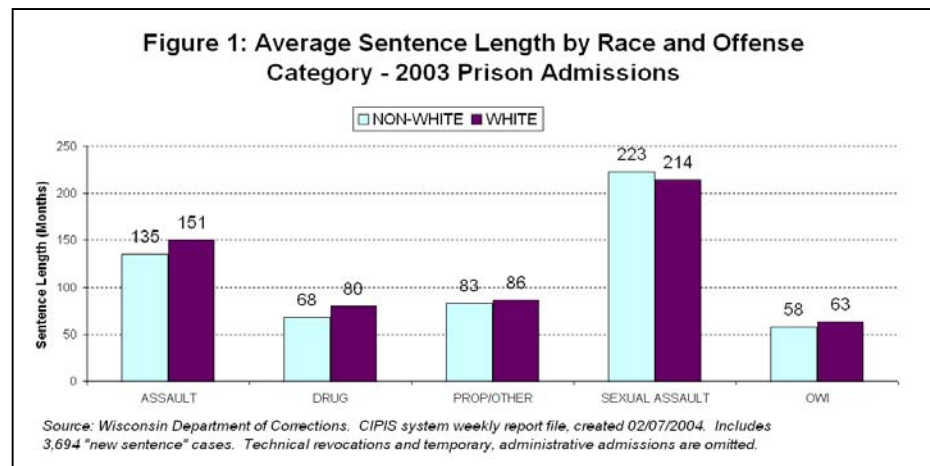
Since Milwaukee accounts for 42% of total prison admissions, but 64% of non-white admissions, shorter sentences would tend to “pull” the statewide average down further for non-white defendants than for white defendants.

#### Geographic Patterns?

Figure 2 presents average sentences for the geographic breakdowns required in the Sentencing Commission’s enabling legislation.<sup>4</sup> It compares average sentences in each region to the statewide average.

Milwaukee County is slightly below the statewide average on all but violent offenses. On the other hand, the Fox River Valley counties and the rest-of-the-state category are at or above the statewide average in almost every offense category.

Eisenstein, Flemming and Narduli<sup>5</sup> argue that courts, and the judicial outcomes they produce, are shaped largely by the



Given this sort of interaction between geographic and demographic patterns, the next step is to break-down the geographic comparison from Figure 2 by race. For this brief report, we will simplify by comparing Milwaukee to the rest of the state.

Figure 3 shows that average sentences do not consistently favor one racial category over the other. Non-white defendants receive lower average sentences for Drug and Violent offenses in Milwaukee County, and for OWI and Violent offenses in the rest of the state. Average sentences for Property offenses outside of Milwaukee are almost identical, and slightly higher for minority defendants in Milwaukee.

**Figure 3: Average Sentences by Offense Category**

<i>Property Offenses</i>	<b>Milwaukee</b>	<b>Rest of State</b>
Non-White	6 yrs., 5 mos.	7 yrs., 6 mos.
White	6 yrs.	7 yrs., 5 mos.

<i>Operating While Impaired</i>		
Non-White	4 yrs. 6 mos.	5 yrs.
White	4 yrs., 3 mos.	5 yrs., 5 mos.

<i>Drug Offenses</i>		
Non-White	5 yrs., 1 mo.	7 yrs., 7 mos.
White	6 yrs., 1 mo.	6 yrs, 11 mos.

<i>Violent/Assaultive Offenses</i>		
Non-White	12 yrs., 4 mos.	9 yrs., 10 mos.
White	12 yrs., 8 mos.	12 yrs., 6 mos.

However these broad categories may mask crucial patterns, leaving important questions unanswered: do the races differ in the disposition of prison versus probation sentences

for the most minor offenses? Do longer criminal histories tend to put upward pressure on sentences for one demographic group or another? What interactions occur between age, race and community influences (e.g., local crime rate)?

In reality, there may be a number of factors that work in opposite directions to partially cancel each other. For example, while urban counties have larger caseloads that might lead to lower average sentences, they also experience most of the violent offenses like armed robberies and homicides. This might explain why Milwaukee is below the average for drug and property sentences, but slightly above for the broad category of violent offenses.

In sum, our analysis of race and sentencing to date shows only that a substantial amount of work remains to definitively answer any of the questions we have raised. As the Commission seeks to improve the understanding of race and sentencing, it is faced with several important challenges:

- Developing a comprehensive sentencing database.
- Analyzing both the decision to incarcerate (probation, prison, or alternatives), and the length of prison sentences.
- Understanding the long-term impacts of trends in extended supervision.
- Describing sentencing in the larger context of the entire criminal justice process.

The Sentencing Commission expects to produce its findings via a monograph series, “Race and Sentencing in Wisconsin” to carefully address the questions raised above.

<sup>1</sup> Data extracted from the CIPIS Weekly Report File (created 02/07/2004) is made up of 3,694 “New Sentence” cases with a valid county of conviction. Probation & Parole revocations and temporary or administrative holds are excluded.

<sup>2</sup> The preliminary data obtained from the Department of Corrections includes only a **total** bifurcated sentence, the sum of prison confinement and extended supervision. The Commission is working with the Courts and the Department to develop a more complete sentencing data set.

<sup>3</sup> Race is recorded in this database as determined at intake by Department of Corrections staff.

<sup>4</sup> (Wis Stats 973.30(i)) states: “At least semiannually, submit reports ... Each report shall contain information regarding sentences imposed statewide and in each of the following geographic areas: 1. Milwaukee County; 2. Dane and Rock counties; 3. Brown, Outagamie, Calumet, and Winnebago counties; 4. Racine and Kenosha counties; 5. All other counties.”

<sup>5</sup> *The Contours of Justice: Communities and Their Courts*. Boston: Little, Brown and Company. 1998.